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**REQUEST
FOR
CONTINUED EXAMINATION (RCE)
TRANSMITTAL**

Address to:
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Application Number	09/392,270
Filing Date	September 9, 1999
First Named Inventor	Jason A. Poirier et al.
Art Unit	3726
Examiner Name	Trinh T. Nguyen
Attorney Docket Number	1-21036

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ii. ☐ Other _____
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- iii. ☐ Information Disclosure Statement (IDS)
- ii. ☐ Affidavit(s)/Declaration(s)
- iv. ☒ Other Terminal Disclaimer

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 13-0005
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☒ Other Terminal Disclaimer
- b. ☐ Check in the amount of \$ _____ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print / Type)	Richard S. MacMillan	Registration No. (Attorney / Agent)	30,085
Signature	<i>Richard S. MacMillan</i>	Date	December 30, 2003

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Name (Print / Type)	Betty J. Borger	Date	December 30, 2003
Signature	<i>Betty J. Borger</i>		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Betty J. Bourger
(signature)

Date of signature and deposit - 12-30-03



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
JASON A. POIRIER et al.

Serial No. 09/392,270

Filed: September 9, 1999

For: APPARATUS AND METHOD
OF MANUFACTURING A
VEHICLE FRAME ASSEMBLY

)
) Group Art Unit 3726
)
) Examiner Trinh T. Nguyen
)
) Attorney Docket 1-21036
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RESPONSE

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Honorable Sir:

The Examiner provisionally rejected Claims 1-7, 15, and 16 under the judicially created doctrine of obviousness-type double patenting in view of co-pending application Serial No. 09/408,747, which matured into U.S. Patent No. 6,477,774 on November 12, 2002. A terminal disclaimer is enclosed.

The Examiner rejected Claims 1-7, 15, and 16 under 35 U.S.C. 103(a) as being obvious in view of the combined teachings of the applicants' admitted prior art in view of the Mills et al. reference. These rejections are respectfully traversed.

Claim 1 defines the invention as a method for manufacturing a vehicle frame component including the steps of (a) providing a workpiece; (b) performing a scanning retrogression heat treatment process on the workpiece in a continuous and longitudinal manner from one end to the other to soften the workpiece; and (c) while the workpiece remains softened, deforming the workpiece to form a vehicle frame component.

The admitted prior art discloses only that a closed channel structural member can be heat treated prior to the performance of a bending process so as to increase the ductility thereof, and further that such a heat treatment process can be a retrogression heat treatment process that is performed on the closed channel structural member either in whole or in part. The admitted prior art does not show or suggest the claimed method of performing a scanning retrogression heat treatment process on the workpiece in a continuous and longitudinal manner from one end to the other to soften the workpiece and, while the workpiece remains softened, deforming the workpiece to form a vehicle frame component. Thus, the admitted prior art clearly falls short of the claimed invention.

The Mills et al. reference relates to a hot working process, wherein the workpiece is deformed while it is at a relatively high temperature. In a hot working process, a metallic workpiece is initially heated to a relatively high temperature so as to cause it to become relatively soft and flexible. Then, while it remains at the relatively high temperature and in this relatively soft and flexible condition, the workpiece is deformed as desired.

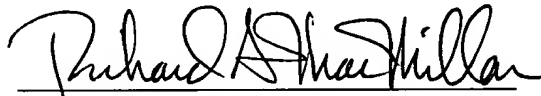
The claimed retrogression heat treatment process, on the other hand, is a cold working process, wherein the workpiece is deformed while it is at a relatively low temperature. In a retrogression heat treatment process, a metallic workpiece is rapidly heated to a relatively high temperature, then is rapidly cooled to a relatively low temperature. Notwithstanding the rapid cooling, the workpiece retains the full or partial softening characteristics for at least a relatively short period of time. It is during this relatively short period of time that the workpiece is deformed as desired.

Thus, it can be seen that the hot working process disclosed in the Mills et al. reference is completely unrelated to the claimed cold working process. A person of ordinary skill in the art would not find the hot working process disclosed in the Mills et al. reference to have any reasonable relevance to the claimed cold working process. Thus, the disclosure of the Mills et al. reference should not even be considered by the Examiner.

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It is understood that the Examiner has cited the Mills et al. reference only to find support for the alleged obviousness of handling the workpiece in a longitudinally reciprocating manner. However, it is inappropriate for the Examiner to dissect the reference in this manner. The Mills et al. reference discloses a hot working process wherein a heated workpiece is deformed until it becomes chilled, then is re-heated back to the hot working temperature for subsequent deformation. During these reheating steps, the workpiece is handled in a longitudinally reciprocating manner. The claimed invention, however, relates to an improved method of performing a completely different process on a workpiece so as to allow a cold working process to be performed. Thus, the claims are clearly patentable over the art of record.

Respectfully submitted,



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